IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

Crl.MC.No. 3934 of 2006()

CMP.3546/2006 of JUDL. MAGISTRATE OF FIRST CLASS COURT-III,
NEYYATTINKARA \
CRIME NO.193/06 OF KANJIRAMKULAM POLICE STATION.

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PETITIONER:

RAVI, S/O. RAJU,
KURUNULLY VEEDU,
KEEZHKOLLA DESOM,
CHENKAL VILLAGE.

BY ADV. SRI.PIRAPPANCODE V.S.SUDHIR
SRI.JOHNY THOMAS

RESPONDENTS:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
OFFICE OF THE ADVOCATE GENERAL,
HIGH COURT OF KERALA,
ERNAKULAM.
(SUB INSPECTOR OF POLICE,
KANJIRAMKULAM POLICE STATION.

BY P.P. SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3934 OF 2006

Dated this the day of November, 2006

ORDER

The petitioner claims to be the owner in possession of a lorry. He is the registered owner. The vehicle has been sold to him by the registered owner. The change of ownership has not been endorsed in the Registration Certificate so far. The vehicle was seized by the police in connection with an alleged illicit transportation of sand. The petitioner prayed before the learned Magistrate for release of the lorry. The learned Magistrate did not accept the said prayer and rejected the petition by the impugned order holding that the petitioner is not shown to be the registered owner of the vehicle.

2. The petitioner has come to this Court. He has filed an affidavit of the registered owner expressing his willingness for and absence of objection against the release of the vehicle to the petitioner.

3. Was this representation made before the learned Magistrate? Was a similar affidavit filed before the learned Magistrate? Why was that not done? I find no satisfactory

answers forthcoming. It is certainly for the petitioner to file a proper application before the learned Magistrate showing the registered owner as a party and intimating to the court the absence of objection of such registered owner. If the registered owner and the claimant agree and establish that there has been a valid transfer of ownership of the vehicle, though such a transfer has not been endorsed in the Registration Certificate, I find no reason why the learned Magistrate should not release the vehicle to the owner in possession in whose favour the transfer has been made though such transfer has not been endorsed in the Registration Certificate. Under Sec.451 of the Cr.P.C. a person who is entitled to possession, and not necessarily the title holder, is entitled to release of the vehicle. The endorsement in the Registration Certificate, it is trite, is only the evidence of transfer of title. In these circumstances, I find no reason to assume that the learned Magistrate will not accept the well established and entrenched proposition of law and refuse to return the vehicle to the petitioner if he is otherwise entitled for the same, on the mere reason that he is not the registered owner of the vehicle.

4. In the result, this Crl.M.C. is dismissed; but with the

observation that the petitioner shall be at liberty to move the court below again for release of the vehicle by filing appropriate application. Needless to say that the learned Magistrate must dispose of the application on merits and expeditiously.

(R. BASANT, JUDGE)

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